

1 **RESOLUTION #16-2016 - GENERAL CODE OF ONEIDA COUNTY,**
2 **WISCONSIN**
3 **ORDINANCE AMENDMENT #7-2015**

4
5 **Ordinance Amendment offered by the Planning and Development Committee**

6
7 **WHEREAS**, the Planning & Development Committee, having considered
8 Ordinance Amendment #7-2015, (copy attached) which was filed June 25, 2015,
9 (copy attached) to amend Section 9.98, Piers and Other Berth Structures of the Oneida
10 County Zoning and Shoreland Protection Ordinance, and having given notice thereof as
11 provided by law and having held a public hearing thereon July 15, 2015 pursuant to
12 Section 59.69(5), Wisconsin Statutes, and having been informed of the facts pertinent to
13 the changes which are as follows:

14
15 **WHEREAS**, Oneida County has regulated the size, number, location of piers and
16 marinas since approximately the year 2000; and

17
18 **WHEREAS**, Oneida County has conducted a survey of its residents and 64
19 percent requested Oneida County to continue to regulate the placement of piers; and

20
21 **WHEREAS**, the Planning and Development committee has carefully studied the
22 proposed changes after listening to comments made at the public hearing in 2013,
23 considering survey results in 2014, and comments from the second public hearing in
24 2014 and recommends approval.

25
26 **NOW, THEREFORE, THE ONEIDA COUNTY BOARD OF SUPERVISORS**
27 **DOES ORDAIN AS FOLLOWS:**

28 Section 1. Any existing ordinances, codes, resolutions, or portions thereof in
29 conflict with this ordinance shall be and hereby are repealed as far as any conflict exists.

30 Section 2. This ordinance shall take effect the day after passage and publication
31 as required by law.

32 Section 3. If any claims, provisions or portions of this ordinance are adjudged
33 unconstitutional or invalid by a court of competent jurisdiction, the
34 remainder of this ordinance shall not be affected thereby.

35 Section 4. Chapter 9 of the General Code of Oneida County, Wisconsin, is
36 amended as follows [additions noted by underline, deletions noted by strikethrough]:

37
38 9.98 PIERS and OTHER BERTH STRUCTURES. ~~SHORELAND BULK~~
39 ~~REQUIREMENTS~~ (#83-2003, #12-2006)

40
41 A. Purpose

42
43 Near shorelands and waters and land within statutorily established setback
44 distances from the OHWM provide natural beauty and are biologically the most
45 productive and the most important for recreational use. Excessive or
46 inappropriate construction of berthing and recreation structures in Oneida
47 County's waterways may have a substantial cumulative adverse effect on public
48 rights and interests in those waters. These requirements are intended to
49 minimize the adverse effects of such construction and to reduce conflict between
50 adjacent or nearby riparian owners by separating their respective uses of the

51 water. A pier shall not unreasonably obstruct navigation or otherwise interfere
52 with public rights in the navigable water and shall not interfere with the rights of
53 other riparian owners. It is recognized that berth structures may be used by
54 people with or without boats, for swimming and fishing and may be used for
55 general recreation. This ordinance does not regulate the placement or use of
56 mooring buoys other than to count them in any determination of the maximum
57 number of berths allowed to a riparian land owner pursuant to section 9.98(D).

58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96

B. Compliance

- ~~1. Berth structures constructed or replaced after the effective date of this ordinance which do not meet the requirements in section 9.98(D) are prohibited unless they have been issued a conditional use permit in accordance with the requirements identified for marina facilities in section 9.98(K).~~
- ~~2. A berth structure which existed prior to the effective date of this ordinance may be maintained in its present location and configuration as a permissible pre-existing berth structure subject to the requirements of section 9.99 of this ordinance. The annual seasonal removal of a berth structure does not affect its status as a permissible pre-existing berth structure.~~
- ~~3. Subject to the conditions and restrictions of any existing State or County permit, a berth structure or a marina which existed prior to the effective date of this ordinance may be maintained in its present location and configuration as a permissible berth structure or marina to the extent it is located and used in accordance with such permit and provided that within two years of the effective date of this ordinance a statement of record is filed with the County addressing all of the applicable provisions of sections 9.98(J) and (K).~~
1. A berth structure which existed prior to April 17, 2012 may be maintained in its present location and configuration as a permissible pre-existing berth structure subject to the requirements of Section 9.99 of this ordinance. The annual seasonal removal of the berth structure does not affect its status as a permissible pre-existing berth structure.
2. Subject to the conditions and restrictions of any existing State or County permit, a marina which existed prior to April 17, 2012 may be maintained in its present location and configuration as a permissible marina to the extent that it is located and used in accordance with such permit.
3. Any increase in the number of berths, any change in the location of, or any increase in the dimensions of, or any replacement of an existing berth structure shall be in accordance with this section. Boathouses are not subject to the dimensional restrictions of this section.

Comment [OC1]: Staff recommends keeping this language based on the survey results.

Comment [OC2]: Staff recommends deleting the language as proposed during the public hearing of July 8, 2013 based on the survey results.

97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142

C. Berth Structures Limited (#83-2003)

1. Berth structures, except boathouses and boat shelters, may be placed by a riparian property owner without County permits if the construction complies with this section.
2. The use of the property must remain in conformity with the permissible uses enumerated within the zoning district.
3. Decks, platforms and other construction not essential for berthing of boats are prohibited, except that a canopy is permitted over a boat hoist or boat lift and a roof is permitted over a boat shelter or boathouse
4. A wharf shall only be permitted as an authorized berth structure upon the application for and issuance of a zoning permit after the following conditions have been established by the applicant:
 - a. That the wharf will not unreasonably obstruct navigation or otherwise interfere with public rights in the navigable water.
 - b. That the wharf does not interfere with the rights of other riparian owners.
 - c. That the construction or installation of a pier is not a practicable alternative.

D. Number of Berths

1. For each lot, the total number of berths or moorings at a berth structure is limited to two for the first full 50 feet of shoreline and one berth for each additional full 50 feet. Other factors such as those referenced in section 9.98(E), below, may limit construction and placement to a lesser number. Contiguous lots in common ownership shall be considered a single lot for the purposes of this section.
2. The maximum number of berths that may be permitted for a marina shall be two times the number of berths that would otherwise be permitted under section 9.98(D)(1), subject to the same factors as those referenced in section 9.98(E), which may limit construction and placement to a lesser number. Compliance with this section shall be subject to section 9.98(B)(3).
3. For the purpose of this section, riparian shoreline frontage shall be determined pursuant to the provisions of Wis. Admin. Code NR 326.07.

E. Location of Berth Structures

1. Berth structures and moored boats must be confined to the owner's riparian zone as described in Wis. Admin. Code NR 326. Berth structures must be set back a minimum of 10 feet from side lot lines

- 143 extended waterward and any additional distance required to confine
 144 approach and docking of the boat to the owner's riparian zone.
 145 2. A berth structure may not unreasonably obstruct navigation or
 146 otherwise interfere with public rights in navigable waters. A pier
 147 may not encircle or isolate part of a waterway and may not interfere
 148 with the rights of other riparian owners.
 149 3. Berth structures and their use may not damage public interest in
 150 waterways, including but not limited to, ecologically significant
 151 areas, i.e. spawning areas, important vegetation, loon or other
 152 waterfowl nesting areas, natural shoreline beauty.
 153 4. Berth structures shall be consolidated as close together as
 154 practicable at a single location for each lot. Located within the view
 155 corridor, for each lot.
 156 5. Berth structures, where practicable, shall be located immediately
 157 waterward from the shoreline where any boathouse or boat shelter
 158 is located.
 159 6. The number of piers allowed accrues proportionately to the amount
 160 of shoreland frontage owned: one pier is permitted for riparian
 161 owners owning less than 150 feet of shoreland frontage. One
 162 additional pier is permitted for each additional full 100 feet. of
 163 portion thereof, of the riparian owner's contiguous shoreland
 164 frontage. Multiple piers shall be consolidated as close together as
 165 practicable for each lot.
 166

Comment [OC3]: Changes resulting from the survey.

Comment [OC4]: Changes resulting from the survey.

167 F. Dimensional Requirements (#83-2003)

- 168
- 169 1. Length
- 170 a. Unless limited by a pierhead line, as authorized by sec. 30.13,
 171 Wis. Stats., pier length is limited to:
 172 (1) distance to three (3) foot water depth.
 173 (2) length of boat to be berthed.
 174 (3) depth required by boat to be berthed.
 175 b. ~~A pier which otherwise meets the requirements of section~~
 176 ~~9.98(F)(1)(a) above, but which is more than 50 feet in distance~~
 177 ~~from the ordinary high water mark, requires a zoning permit~~
 178 ~~which may be issued only after the following conditions have~~
 179 ~~been established by the applicant:~~
 180 ~~(1) that the pier will not unreasonably obstruct navigation or~~
 181 ~~otherwise interfere with public rights in the navigable water.~~
 182 ~~(2) that the pier does not interfere with the rights of other~~
 183 ~~riparian owners.~~
- 184 2. Width. The deck width of a pier, including "T" or "L" or similar finger
 185 extensions, may not exceed six (6) feet. except upon the
 186 application for and issuance of a CUP for which the applicant
 187 demonstrates a need for Pursuant to Section 9.19, Relaxation of
 188 Standards for Persons with Disabilities, a deck width of up to eight

Comment [OC5]: Changes resulting from the survey.

Comment [OC6]: Changes resulting from the survey.

- 189 (8) feet may be permitted because of the handicap of a frequent
190 user.
191 3. Lateral extensions. Any lateral extensions on piers shall be a "T" or
192 "L" shape and must not exceed 20 feet in total width.
193

194 G. Regulation of Lighting

- 195
196 The purpose of this section is to minimize light pollution of the
197 shoreland environment without significantly inhibiting safety and
198 security. This section applies to all lighting on berthing structures or
199 designed to illuminate those structures and associated berths. Light
200 fixtures which do not conform to these provisions may be allowed with
201 a conditional use permit upon a showing of special circumstances
202 affecting safety, security, or general public interest. Legal pre-existing
203 lighting in existence on the effective date of this section must be
204 brought into compliance within five (5) years.
205 1. Flashing and rotating lights are prohibited.
206 2. Lighting inside a boathouse and intended to illuminate its interior is
207 permitted.
208 3. Lighting on exteriors of berthing structures shall be fitted with
209 opaque shades or shields to prevent direct visibility of the lamp to
210 persons on public waters or adjacent lands more than 50 feet
211 beyond the berthing structure.
212 4. Lighting not mounted on a berthing structure but designed to
213 illuminate a berthing structure or its immediate vicinity shall comply
214 with subparagraph 3 above.
215 5. Lighting installed on, or intended to illuminate, seasonally used
216 berthing structures shall be turned off when not required for safety
217 or security.
218 6. Public marinas may install illuminated signs with opaque shaded or
219 shielded lighting that provide information pertaining to applicable
220 federal, state or municipal rules and regulations relating to
221 electrical, fueling, waste and sewage disposal or other safety and
222 environmental matters. Such sign illumination shall not be visible
223 from off the berth structure.
224

225 H. Accessory Construction

- 226
227 A pier may include only the following accessory construction:
228 1. Fuel or sewage handling equipment if applicable state and local
229 safety and pollution prevention rules are complied with and
230 necessary State and/or County permits are obtained.
231 2. A single bench that is Up to two (2) benches that are 6 feet or less
232 in length or two (2) swivel seats, or one bench 6 feet or less and
233 one swivel seat.
234 3. Flag pole.

- 235 ~~4.3 A vertical boarding ladder required for safety or near vertical water~~
236 ~~stairs with handrails not to exceed four (4) feet in width.~~
237 ~~5.4. An open railing may be permitted upon the application for and~~
238 ~~issuance of a CUP for which the applicant demonstrates a need~~
239 ~~because of the handicap of a frequent user. pursuant to Section~~
240 ~~9.19 Relaxation of Standards for Persons with Disabilities.~~
241 6. Bumpers to protect watercraft and pier from damage.

242
243 I. Pier Construction Materials

244 Piers may be constructed of wood, treated wood, metal or other
245 material, subject to the following:

- 246 1. They shall be free of any product residue or pollutants.
247 2. Metallic flotation devices shall be coated or painted to prevent
248 corrosion.
249 3. They shall not include any container previously used to store
250 hazardous substances as defined in sec. 144.01, Wis. Stats
251 4. They shall not include material that may readily fragment or break
252 up, such as unprotected polystyrene or polyurethane floats.
253 5. Flotation devices shall be securely attached to the frame and
254 maintained in serviceable condition at all times.
255 ~~6. Safety reflectors shall be required on three sides of the waterward~~
256 ~~end of piers. Safety reflectors are also required on both sides of~~
257 ~~piers at minimum increments of 25 feet. Reflectors shall be white,~~
258 ~~amber or blue and shall be no more than five (5) inches square in~~
259 ~~size.~~

260
261
262 J. Marina Permit Guidelines

263 Granting of permits for marina facilities under this section shall be
264 guided by the following principles:

- 265 1. The County has an obligation to protect public water resources and
266 public safety by regulating construction of berth structures for
267 boats.
268 2. The County encourages public access to navigable water
269 consistent with its obligation to prevent degradation of water
270 resources by overuse.
271 3. The uncontrolled drainage of developed riparian land has a
272 significant adverse impact upon the health, safety, and welfare of
273 the County by increasing the siltation and pollution of ground and
274 surface water, by accelerating the eutrophication of receiving
275 waters, by diminishing groundwater recharge and by increasing the
276 incidence and severity of flooding.
277 4. The right to place berths, berth structures or on-site storage
278 facilities for boats accrues in proportion to the amount of shoreline
279 owned as described in section 9.98(D). Any such berth or storage
280

281 facility in excess of the number permitted pursuant to section
282 9.98(D), shall be authorized only for the purpose of serving the
283 public's interests and rights in the navigable waterways of this
284 County. Such berths or on-site storage facilities must be available
285 to members of the public on a first come - first served basis.
286 Rentals or leases for the exclusive use of any such berths shall not
287 be permitted for periods in excess of one year.

288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326

K. Marina Facilities

1. Any pier, boat shelter or mooring placement which exceeds the requirements of section 9.98(D) is deemed a marina facility for the purposes of meeting the requirements of this section and shall require a conditional use permit which may only be issued after a duly noticed public hearing has been held. Such permits may only be approved for lots which are located in zoning districts which allow marinas, or if the facility is owned by the federal, state or a municipal government.
2. In making a determination of whether a site is appropriate for a marina, the type of information contained in a CUP application may be considered as well as the impact of a marina on neighboring land or public facilities and of the public need for a marina. The following additional criteria must be addressed:
 - a. Existing land and water uses within 2 mile of the marina, including all current business uses of the property.
 - b. Current zoning district designation within 2 mile of the marina.
 - c. Proximity of the marina to existing public boat landings, public swimming beaches and marinas.
 - d. Buffer areas between the marina and adjacent properties.
 - e. Location of ecologically significant areas within 2 mile of the proposed site.
 - f. Noise control measures.
 - g. A detailed sketch showing location and size of existing and proposed buildings, wells, septic systems, piers, individual slips, mooring buoys, water depth for berths and berth structures, boat launching facilities, beaches, fuel tanks and dispenser, parking lots, traffic circulation for both vehicles and boats.
 - h. A statement from the applicant indicating the number of berths proposed to be sold, rented, or leased and the method of conveyance (e.g., fee simple, lease).
 - i. Methods of waste collection and disposal. Identify precautions to stop improper disposal.
 - j. Visual markers and/or signage of reasonable dimensions necessary to identify and/or locate the project.
 - k. Exterior lighting of the marina facility.
 - l. Sewage system capacity and compliance.

- 327 m. Motor vehicle and trailer parking facilities.
- 328 n. Hours of operation.
- 329 o. Anticipated future changes or additional phases of the project.
- 330 p. Methods to safely dispensing fuel.
- 331 q. Location of any existing or proposed no-wake buoys.
- 332 r. Erosion control measures.
- 333 s. Storm water runoff controls.
- 334 t. Fire protection measures.
- 335 u. A statement from the applicant identifying all permits applied for
- 336 or obtained by the applicant or his/her predecessor at the site,
- 337 or obtained by the applicant or his/her operator at any other
- 338 commercial site within the preceding ten (10) years and the
- 339 extent of compliance with such permits.
- 340

341 L. Marina Facility Requirements

342 Marina facilities shall comply with the following requirements:

- 344 1. Marina facilities may not be permitted on waters formally
- 345 designated by federal or state government as an outstanding
- 346 resource water.
- 347 2. The applicant is required to secure authorization required by
- 348 municipal floodplain, shoreland, wetland and general zoning
- 349 ordinances and applicable state statutes and administrative rules,
- 350 including but not limited to regulations relating to electrical, fueling,
- 351 waste and sewage disposal and other safety and environmental
- 352 regulations.
- 353 3. The applicant must demonstrate that on-land boat storage or trailer
- 354 launch facilities are not a feasible alternative to any proposed pier,
- 355 boat shelter or mooring construction.
- 356 4. The applicant shall employ erosion control measures to prevent
- 357 erosion, siltation, sedimentation and washing and blowing of dirt
- 358 and debris from excavation, grading, open cuts, side slopes and
- 359 related activities of the applicant or the contractors. Such measures
- 360 shall include, but not be limited to, seeding, sodding, mulching,
- 361 watering, ponding and the construction of berms.
- 362 5. The applicant shall determine stormwater runoff or flow as a result
- 363 of this development. The applicant shall provide stormwater
- 364 management facilities either in the form of an infiltration structure or
- 365 a detention basin which will retain on-site the first inch of
- 366 stormwater from all impervious surfaces from this development.
- 367 6. Berthing privileges available to members of the public shall be
- 368 rented or leased only on a first come - first served basis for terms
- 369 no longer than one (1) year.
- 370 7. Any change or proposed change involving the facts relating to
- 371 criteria identified in sections 9.98(K) and (L) or as a condition of
- 372 approval for which a conditional use permit was issued must be

- 373 submitted to and approved by the County prior to implementation of
 374 such change.
 375 8. Reasonable public access to the facility and handicapped parking
 376 in compliance with state and federal regulations for the disabled
 377 must be provided.
 378 9. Permits issued under this section are subject to further restrictions,
 379 conditions, modifications or revocation if the County determines the
 380 facility has become detrimental to the public interest or that it is not
 381 being adequately offered for use to the general public.
 382 10. Boats berthed at a marina facility shall not be used for overnight
 383 lodging.

384
 385 M. Boathouses

386
 387 Any permitted boathouse shall be confined to the viewing area, shall
 388 be at least 10 feet from the side yard lot line and subject to the
 389 provisions of section 9.94(A)(2)(d).
 390

391 The County Clerk shall, within seven (7) days after adoption of Ordinance Amendment
 392 #7-2015 by the Oneida County Board of Supervisors, cause a certified copy thereof to
 393 be transmitted by mail to the Town Clerks of Oneida County and the Wisconsin
 394 Department of Natural Resources.
 395

396 Approved by the Planning and Development Committee this 27th day of January, 2016.
 397

398 Consent Agenda Item: _____YES _____NO
 399

400 Vote Required: Majority = _____ 2/3 Majority = _____ ¾ Majority = _____
 401

402 The County Board has the legal authority to adopt: Yes _____ No _____ as
 403

404 reviewed by the Corporation Counsel, _____, Date:
 405
 406 _____
 407
 408

409 Offered and passage moved by: _____
 410 Supervisor
 411 _____
 412 Supervisor
 413 _____
 414 Supervisor
 415 _____
 416 Supervisor
 417 _____
 418 Supervisor
 419
 420
 421

422 _____ Ayes

423

424 _____ Nays

425

426 _____ Absent

427

428 _____ Abstain

429

430

431 _____ Enacted

432

433 by the County Board of Supervisors this ____ day of _____, 2016.

434

435 _____ Defeated

436

437

438

439 _____
Mary Bartelt, Clerk

David Hintz, County Board Chair

440